

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Gerald Hartleip,
Appellant,

v.

Black Hawk County Board of Review,
Appellee.

ORDER

Docket No. 13-07-0441
Parcel No. 8913-30-201-060

On December 13, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Gerald M. Hartleip was self-represented. Assistant County Attorney David Mason represented the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Gerald Hartleip is the owner of residentially classified property located at 4610 Whispering Pine Circle, Cedar Falls, Iowa. The property record card indicates the subject is a one-story condominium built in 2008. However, the photograph on the property record card, along with other photos in the record, indicates the subject has two stories. It has 1954 square feet of above grade finish, a full basement with 625 square feet of finish, a deck, an open porch, and a 552 square-foot attached garage. The site is 0.199 acres.

The January 1, 2013, assessed value was \$300,280, allocated as \$19,480 in land value and \$280,800 in dwelling value. Hartleip protested to the Board of Review claiming the property was inequitably assessed under Iowa Code section 441.37(1)(a)(1). The Board of Review denied his

petition. Hartleip then appealed to this Board reasserting his claim and asserting the property's correct value is \$265,000.

Hartleip submitted assessment and tax information for five properties in his development that he considered similar to the subject property. The 2013 assessments for these properties range from \$263,370 to \$302,450. The properties are all similar condominium units. The following is a summary of his comparable properties.

Address	Living Area	Basement Finish	2013 Assessed Value	Sales Price	Sale Date
Subject	1954	625	\$300,280	N/A	N/A
4626 Whispering Pine Cr	1954	625	\$280,550	\$279,900	May-12
4574 Whispering Pine Cr	1954	600	\$289,270	N/A	N/A
1710 Whispering Pine Cr	1708	325	\$263,370	\$277,000	Mar-13
1712 Whispering Pine Cr	1686	600	\$266,070	\$247,000	Jun-11
4612 Whispering Pine Cr	1954	800	\$302,450	N/A	N/A

An equity analysis typically compares *prior year sale prices* (2012 sales in this case) or established market values to the *current year's assessment* (2013 assessment) to determine the assessment/sales price ratio. Therefore, we find the 2011 and 2013 sales are not relevant to Hartleip's equity claim.

The remaining sale of 4626 Whispering Pine Circle occurred in May 2012. We note the property record card for 4626 Whispering Pine Circle indicates 625 square feet of basement finish; however, it also indicates a permit was taken out for basement finish after the sale date of May 2012. Therefore, the January 1, 2013, market value of this property could be higher than its reported sales price and we would question the results of an assessment/sales price ratio analysis. As a result, we give this property no consideration. Regardless, under Iowa law an equity analysis requires more than one comparable property.

Hartleip also submitted a multiple listing sheet (MLS) and a partial property record printout of the property located at 4612 Whispering Pine Circle. It is for sale with a list price of \$284,900. The MLS indicates it has been on the market for 115 days as of November 2013. However, Hartleip asserts

it has been on and off the market for over two years. Hartleip also submitted value estimates for this property that he obtained from three websites, Zillow, Homes.com, and Homesnap.com. These websites indicate a value of roughly \$244,000 to \$249,000 for this property but there is no indication of how this value was determined. Ultimately, we do not find this information relevant for an equity analysis.

Hartleip did not provide any evidence of the subject property's actual value, such as a recent sale price or appraisal, which is also necessary to complete an equity analysis. Lastly, Hartleip did not make any assertions that the assessor did not apply an assessing method uniformly to similarly situated or comparable properties.

The Board of Review submitted a letter from County Assessor Tami McFarland. McFarland submitted four sales of similar units in the subject's development. One sale occurred in 2012 and three occurred in 2011 with sales prices between \$247,000 and \$385,000. After applying adjustments, the sales have indicated values between \$281,200 and \$365,130. While we question whether the adjustments made to the sales represent market actions, we will not dwell on this issue because we do not find this evidence relevant for an equity claim.

Ultimately, McFarland believes Hartleip submitted information indicating the subject is over-assessed and the correct value is \$281,550. We are not clear how McFarland arrived at this value. Regardless, while we agree with McFarland that the limited evidence and analysis appears to indicate the subject is over-assessed; an over-assessment claim is not properly before this Board and therefore, we lack jurisdiction to modify the value. Because McFarland acquiesces that the subject's market value is less than the assessment, we urge her to re-examine this assessment for the upcoming assessment year.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires

assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

While three of comparable properties Hartleip submitted have sold, two sales occurred in 2011 and 2013 respectively and we found they were not relevant to Hartleip's 2013 equity claim. The remaining comparable property (4626 Whispering Pine Circle) appears to have been materially altered after the sale by the addition of basement finish, which would cause an increase in the property's market value as of the assessment date. As a result, we gave no consideration to this property. Regardless, an equity analysis under *Maxwell* requires more than one comparable property as well as evidence of the subject property's actual value. Further, Hartleip did not make any assertions that the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties. For these reasons, we find that Hartleip failed to prove inequity under either legal test.

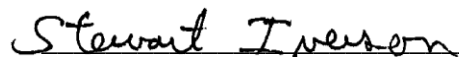
While the Board of Review submitted evidence and asserts the subject is over-assessed, we are restricted to only those grounds raised to the Board of Review. § 441.37A(1)(b), § 441.37A(3)(a). Because the evidence suggests over-assessment, however, we encourage the Assessor's office to re-examine the assessment of this property for the upcoming assessment year.

THE APPEAL BOARD ORDERS the 2013 assessment of Gerald Hartleip's property located at 4610 Whispering Pine Circle, Cedar Falls, Iowa, as set by the Black Hawk County Board of Review is affirmed.

Dated this 14th day of January, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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